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US EPA RECORDS CENTER REGION 5



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April 4, 2001

***VIA FACSIMILE AND U.S. FIRST CLASS MAIL***

Ms. Deena Sheppard-Johnson, SR-6J  
U.S. Environmental Protection Agency  
Remedial Enforcement Support Section  
77 West Jackson Blvd.  
Chicago, Illinois 60604

**Re: EPA General Notice and Request for Information Letter  
The Chemical Recovery Systems Site, Elyria, Ohio**

Dear Ms. Sheppard-Johnson:

We provide the enclosed response on behalf of our client, R.E. Whittaker Company, Inc. ("Whittaker"), to respond to the U.S. Environmental Protection Agency's ("EPA") letter dated March 2, 2001, requesting information ("Information Request") concerning the Chemical Recovery Systems Site located in Elyria, Ohio (the "CRS Site") pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA").

In light of the responses provided herein, Whittaker respectfully submits that it has no liability under CERCLA with respect to the CRS Site, and it requests that EPA drop Whittaker as a Respondent on the General Notice of Potential Liability and Request for Information Letter and as a Potentially Responsible Party at the CRS Site.

Neither this response nor any statement contained herein is intended to be an admission of liability or responsibility by Whittaker.

COHEN & GRIGSBY, P.C.

Ms. Deena Sheppard-Johnson, SR-6J


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Should you have any questions, please do not hesitate to call me. Thank you very much in advance for your thoughtful consideration of this response.

Sincerely yours,

COHEN & GRIGSBY, P.C.

By   
Christine L. Wettach

CLW:kjh

Enclosure

cc: Mr. Thomas R. Whittaker  
Scott R. Thistle, Esq.

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**RESPONSE OF R. E. WHITTAKER COMPANY, INC.  
TO EPA'S INFORMATION REQUEST**

Preliminarily, Whittaker objects to EPA's Information Request on the basis that it assumes that Whittaker is or has been involved with the CRS Site or otherwise would have knowledge or information about the CRS Site. As presently advised, Whittaker does not. In addition, Whittaker respectfully denies having any liability under the CERCLA for the CRS Site. Prior to its receipt of the General Notice Letter, Whittaker had never heard of the CRS Site.

EPA has not provided any information establishing that Whittaker has owned or operated the CRS Site, or generated, transported or disposed of hazardous substances or materials at the CRS Site. Nor has EPA made a showing of any involvement on the part of Whittaker that would connect it to the CRS Site. In response to our Freedom of Information Act request for nexus information, the EPA Region 5 recently responded that the Superfund Division has no documents responsive to the request. Whittaker has discerned no basis for liability in connection with the CRS Site.

Notwithstanding this and to the best of Whittaker's knowledge and belief after reasonable inquiry, and without waiving the right to (1) supplement or amend this response should new information about the CRS Site be brought to Whittaker's attention, or (2) make objections to the General Notice and Information Request Letter or any future use of information contained herein, we respond to the questions presented in the EPA's Information Request as follows:

1. Identify all persons consulted in the preparation of the answers to these questions.

**Response**

**Richard E. Whittaker and Thomas R. Whittaker**

2. Identify all documents consulted, examined, or referred to in the preparation of the answers to these questions and provide copies of all such documents.

**Response**

**Whittaker has found no documents relevant to information that would be responsive to this Information Request.**

3. If you have reason to believe that there may be persons able to provide a more detailed or complete response to any question or who may be able to provide additional responsive documents, identify such persons.

**Response**

**As presently advised, none.**

4. List the EPA Identification Numbers of the Respondent.

**Response**

**Whittaker does not presently have, nor has it previously had, an EPA Identification Number.**

5. Identify the acts or omissions of any person, other than your employees, contractors, or agents, that may have caused the release or threat of release of hazardous substances, pollutants, or contaminants and damages resulting therefrom at the CRS Site.

**Response**

**Whittaker objects to Question 5 on the basis that it assumes that Whittaker has knowledge or information about acts or omissions of a person, other than its employees, contractors, or agents, that may have caused the release or threat of release of hazardous substances, pollutants, or contaminants and damages resulting therefrom at the CRS Site. As presently advised, Whittaker has no such knowledge or information.**

6. Identify all persons including respondent's employees, who have knowledge or information about the generation, use, treatment, storage, disposal, or other handling of material at or transportation of materials to the CRS Site (operating as Obitts Chemical Company or Chemical Recovery Systems, Inc., at 142 Locust Street, Elyria, Ohio).

**Response**

**Whittaker objects to Question 6 on the basis that it assumes that Whittaker has knowledge or information about the generation, use, treatment, storage, disposal, or other handling of material at or transportation of materials to the CRS Site. As presently advised, Whittaker knows of no persons who have such knowledge or information about the CRS Site.**

7. Describe all arrangements that Respondent may have or may have had with each of the following companies and persons:

- a) Obitts Chemical Company
- b) Russell Obitts
- c) Chemical Recovery Systems, Inc.

- d) Peter Shagena
- e) James Freeman
- f) James "Jim" Jackson
- g) Donald Matthews
- h) Bob Spears
- i) Bill Bromley
- j) Carol Oliver
- k) Nolwood Chemical Company, Inc.
- l) Art McWood
- m) Chuck Nolton
- n) Michigan Recovery System, Inc.
- o) Chemical Recovery Systems of Michigan

**Response**

**Whittaker objects to Question 7 on the basis that it assumes that Whittaker has or had arrangements with these companies and persons. Whittaker does not presently have, nor has it ever had, an arrangement with any of these companies or persons.**

8. Set forth the dates during which the Respondent engaged in any of the following activities:

- a) generation of hazardous materials which were sent to the CRS Site;
- b) transportation of any material to the CRS Site.

**Response**

**Whittaker objects to Question 8 on the basis that it assumes that Whittaker generated hazardous materials or transported any material to the CRS Site. As presently advised, Whittaker knows of no material that it caused to be sent to or transported to the CRS Site.**

9. Identify all persons, including yourself, who may have arranged for disposal or treatment, or arranged for transportation for disposal or treatment, of materials, including, but not limited to, hazardous substances, at the CRS Site. In addition, identify the following:

- a) The persons with whom you or such other persons made such arrangements;
- b) Every date on which such arrangements took place;
- c) For each transaction, the nature of the material or hazardous substance, including the chemical content, characteristics, physical state (e.g., solid, liquid), and the process for which the substance was used or the process which generated the substance;
- d) The owner of the materials or hazardous substances so accepted or transported;
- e) The quantity of the materials or hazardous substances involved (weight or volume) in each transaction and the total quantity for all transactions;
- f) All tests, analyses, and analytical results concerning the materials;
- g) The person(s) who selected the CRS Site as the place to which the materials or hazardous substances were to be transported;
- h) The amount paid in connection with each transaction, the method of payment, and the identity of the person from whom payment was received.
- i) Where the person identified in g., above, intended to have such hazardous substances or materials transported and all evidence of this intent;
- j) Whether the materials or hazardous substances involved in each transaction were transshipped through, or were stored or held at, any intermediate site prior to final treatment or disposal;
- k) What was actually done to the materials or hazardous substances once they were brought to the CRS Site;
- l) The final disposition of each of the materials or hazardous substances involved in such transactions;
- m) The measures taken by you to determine the actual methods, means, and site of treatment or disposal of the material and hazardous substance involved in each transaction;

n) The type and number of containers in which the materials or hazardous substances were contained when they were accepted for transport, and subsequently until they were deposited at the CRS Site, and all markings on such containers;

o) The price paid for (i) transport, (ii) disposal, or (iii) both of each material and hazardous substance;

p) All documents containing information responsive to a - o above, or in lieu of identification of all relevant documents, provide copies of all such documents;

q) All persons with knowledge, information, documents responsive to a - p above.

**Response**

**Whittaker objects to Question 9 on the basis that it assumes Whittaker arranged for disposal or treatment, or arranged for transportation for disposal or treatment, of materials, including, but not limited to, hazardous substances, at the CRS Site. Whittaker knows of no material that it caused to be disposed of or treated at the CRS Site.**

10. Identify all liability insurance policies held by Respondent from 1960 to the present. In identifying such policies, state the name and address of each insurer and of the insured, the amount of coverage under each policy, the commencement and expiration dates for each policy, whether or not the policy contains a "pollution exclusion" clause, and whether the policy covers or excludes sudden, nonsudden, or both types of accidents. In lieu of providing this information, you may submit complete copies of all relevant insurance policies.

**Response**

**Whittaker objects to Question 10 on the basis that it is irrelevant and inappropriate to identify all liability insurance policies when the EPA has not demonstrated any basis for Whittaker's alleged liability or need to obtain Whittaker's insurance information, and Whittaker has discerned no nexus to the CRS Site.**

11. Provide copies of all income tax returns, including all supporting schedules, sent to the Federal Internal Revenue Service in the last five years.

**Response**

**Whittaker objects to Question 11 on the basis that it is irrelevant and inappropriate to provide copies of all income tax returns and supporting documents when the EPA has not demonstrated any basis for Whittaker's alleged liability or need to obtain**

**Whittaker's financial information, and Whittaker has discerned no nexus to the CRS Site.**

12. If Respondent is a Corporation, respond to the following requests:

- a) Provide a copy of the Articles of Incorporation and By-Laws of the Respondent.
- b) Provide Respondents financial statements for the past five fiscal years, including, but not limited to, those filed with the Internal Revenue Service and Securities and Exchange Commission.
- c) Identify all of Respondent's current assets and liabilities and the person(s) who currently own(s) or is (are) responsible for such assets and liabilities.
- d) Identify the Parent Corporation and all Subsidiaries of the Respondent.

**Response**

**Whittaker objects to Question 12 on the basis that it is irrelevant and inappropriate to provide such corporate and financial information and respective documentation. The EPA has not demonstrated any basis for Whittaker's alleged liability or need to obtain Whittaker's financial information, and Whittaker has discerned no nexus to the CRS Site. Furthermore, Whittaker is a privately held corporation and its financial information is confidential.**

**By way of further response, and without waiving its objections, Whittaker is a small independent family owned and operated company that was incorporated on October 25, 1976. It has neither a parent corporation nor any subsidiaries.**

13. If Respondent is a Partnership, respond to the following requests:

- a) Provide copies of the Partnership Agreement;
- b) Provide Respondent's financial statements for the past five fiscal years, including, but not limited to, those filed with the Internal Revenue Service and Securities and Exchange Commission;
- c) Identify all of Respondent's current assets and liabilities and the person(s) who currently own(s) or is (are) responsible for such assets and liabilities.
- d) Identify all subsidiaries of the Respondent.



**Response**

**Not applicable.**

14. If Respondent is a Trust, respond to the following requests:

- a) Provide all relevant agreements and documents to support this claim.
- b) Provide Respondent's financial statements for the past five fiscal years, including, but not limited to, those filed with the Internal Revenue Service and Securities and Exchange Commission.
- c) Identify all of Respondent's current assets and liabilities and the person(s) who currently own(s) or is (are) responsible for such assets and liabilities.

**Response**

**Not applicable.**

In light of the responses provided above, Whittaker respectfully submits that it has no liability under CERCLA with respect to the CRS Site, and it requests that EPA drop Whittaker as a Respondent on the General Notice of Potential Liability and Request for Information Letter and as a Potentially Responsible Party at the CRS Site.

Neither this response nor any statement contained herein is intended to be an admission of liability or responsibility by Whittaker.

## CERTIFICATION

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted.

Based upon my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

R.E. Whittaker Company, Inc.

By: 

Title: President

Date: 04-04-2001